



HR1319

LRB099 15839 RLC 49501 r

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HOUSE RESOLUTION

2           WHEREAS, Federal law, 28 U.S.C. 2255, provides in part that  
3 a prisoner in custody under sentence of a court established by  
4 an Act of Congress claiming the right to be released upon the  
5 ground that the sentence was imposed in violation of the  
6 Constitution or laws of the United States, or that the court  
7 was without jurisdiction to impose the sentence, or that the  
8 sentence was in excess of the maximum authorized by law or is  
9 otherwise subject to collateral attack, may move the court  
10 which imposed the sentence to vacate, set aside or correct the  
11 sentence; and

12           WHEREAS, The United States Supreme Court held in Brady v.  
13 Maryland, 373 U.S. 83 (1963) that suppression by the  
14 prosecution of evidence favorable to an accused who has  
15 requested it violates due process if the evidence is material  
16 either to guilt or to punishment, irrespective of the good  
17 faith or bad faith of the prosecution; and

18           WHEREAS, Rule 16(a)(1)(E)(i) of the Federal Rules of  
19 Criminal Procedure provides that upon a defendant's request,  
20 the government must permit the defendant to inspect and to copy  
21 or photograph books, papers, documents, data, photographs,  
22 tangible objects, buildings or places, or copies or portions of  
23 any of these items, if the item is within the government's

1 possession, custody, or control and the item is material to  
2 preparing the defense or the government intends to use the item  
3 at trial; and

4 WHEREAS, Prosecutors continue to be found to have withheld  
5 exculpatory evidence favorable to the accused; and

6 WHEREAS, This results in convictions giving persons a  
7 criminal record and making it difficult for them to find a job  
8 and reconstruct a life after prison; and

9 WHEREAS, This abuse exists both in the federal and state  
10 criminal justice systems; and

11 WHEREAS, Federal post-conviction relief under 28 U.S.C.  
12 2255 only applies to persons currently in custody; and

13 WHEREAS, It may be many years after a person is released  
14 from federal custody that the person discovers that the  
15 prosecutor of the case that resulted in his or her conviction  
16 withheld exculpatory evidence; and

17 WHEREAS, Federal post-conviction relief should be extended  
18 to a person sentenced to probation or already released from  
19 custody if the prosecutor of the case that resulted in his or  
20 her conviction withheld exculpatory evidence; therefore, be it

1           RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE  
2 NINETY-NINTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we  
3 urge Congress to amend 28 U.S.C. 2255 to provide that relief is  
4 available in cases when exculpatory evidence has been withheld  
5 from a person and either the person was convicted and sentenced  
6 to probation or the person has been released from federal  
7 incarceration; and be it further

8           RESOLVED, That suitable copies of this resolution be  
9 forwarded to the Speaker of the United States House of  
10 Representatives, the President pro tempore of the United States  
11 Senate, the Majority and Minority leaders of the United States  
12 Senate and House of Representatives, and to each member of the  
13 Illinois Congressional delegation.